

* * * PUBLIC NOTICE * * *

THE PIO PICO ENERGY CENTER

ANNOUNCEMENT OF FINAL PERMIT DECISION TO ISSUE A CLEAN AIR ACT PREVENTION OF SIGNIFICANT DETERIORATION PERMIT THAT REGULATES THE EMISSION OF AIR POLLUTANTS PERMIT APPLICATION NO. SD 11-01

Final Agency Action and Project Description: Region 9 issued its final decision to grant conditional approval, in accordance with the Clean Air Act Prevention of Significant Deterioration (PSD) regulations (40 CFR 52.21), to Pio Pico Energy Center, LLC (PPLLC) to construct and operate a 300 megawatt (MW, nominal) electric generating facility known as the Pio Pico Energy Center (Project). The Project consists of three General Electric (GE) LMS100 natural gas-fired combustion turbine-generators (CTGs) with a total net generating capacity of 100 megawatts each.

The proposed location for the Project is an unincorporated area of San Diego County known as Otay Mesa. It is comprised of a 9.99 acre parcel located at 7363 Calzada de la Fuente in the Otay Mesa Business Park. The Project is located within the San Diego County Air Pollution Control District. The mailing address for the PPLLC is Pio Pico Energy Center, LLC, c/o Energy Investors Funds, Three Charles River Place, 63 Kenderick Street, Suite 101, Needham, MA 02494.

PSD Permit No. SD 11-01 will become effective on April 7, 2014. Pursuant to section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1), judicial review of this final permit decision, to the extent it is available, may be sought by filing a petition for review in the United States Court of Appeals for the Ninth Circuit **within 60 days** of publication of notice of this final permit decision in the **Federal Register**.

Background Information: In public notices issued on June 20, 2012 and August 3, 2012, Region 9 requested public comment on its proposed permit to grant conditional approval, in accordance with the PSD regulations, to PPLLC to construct and operate the Project, and the Region also held a public hearing on July 24, 2012 to receive such comment.

During this 2012 public comment period, Region 9 received written comments regarding its proposed PSD permitting action for the Project. After carefully reviewing each of the comments submitted and considering the views expressed by all commenters, the pertinent Federal statutes and regulations, and additional material relevant to the application and contained in our administrative record, on November 19, 2012, Region 9 made a decision pursuant to 40 CFR 52.21 to issue a final PSD permit for the Project.

Three commenters filed petitions for review of the Region's November 19, 2012 PSD permit decision for the Project with EPA's Environmental Appeals Board (Board). On August 2, 2013, the Board issued a decision remanding in part and denying review in part of the Region's

November 19, 2012 decision. The Board remanded to Region 9 the emission limits for particulate matter from the combustion turbines and directed Region 9 to prepare a revised Best Available Control Technology (BACT) analysis for particulate matter for the Project's combustion turbines in accordance with the Board's decision, including a new BACT determination, after consideration of all of the relevant information. The Board also directed Region 9 to reopen the public comment period to provide the public with an opportunity to comment on the revisions to its particulate matter BACT analysis. The EAB denied review of all other issues.

In addition, the Board's decision stated that once Region 9 issues a final permit decision following the public comment period required by the remand, the Region's final permit decision and the Board's decision in this matter become final agency action subject to judicial review per 40 CFR 124.19(l). The Board's decision noted that although an appeal to the Board is a prerequisite to judicial review of an initial final permit decision, such an appeal is not a prerequisite to judicial review of a final permit decision following a Board remand of a permit decision unless the Board "specifically provides that appeals of the remand decision will be required to exhaust administrative remedies." **The Board's decision further stated that the Board is not requiring, and will not accept, an appeal to the Board of the final permit decision for the Project following remand in this case.**

In response to the EAB's remand decision, Region 9 prepared a revised particulate matter BACT analysis and BACT determination for the emission limits for the Project's combustion turbines in accordance with the Board's order, and proposed revised permit conditions for such limits. In November of 2013, Region 9 issued a public notice seeking public comment on this revised analysis and these revised particulate matter permit conditions, and the Region also held a public hearing on December 17, 2013 to receive such comment.

During the 2013 public comment period, EPA received written and oral comments regarding its proposed PSD permitting action for the Project. EPA has carefully reviewed each of the comments submitted and, after consideration of the expressed views of all commenters, the pertinent Federal statutes and regulations, and additional material relevant to the application and contained in our Administrative Record, EPA has made a decision in accordance with 40 CFR 52.21 to issue a final PSD permit to PPLLC.

Additional Information: Key portions of the Administrative Record for this decision (including the final permit, all public comments, EPA's responses to the public comments, and additional supporting information) are available through a link at our website, www.epa.gov/region09/air/permit/r9-permits-issued.html#psd, or at www.regulations.gov (Docket ID # EPA-R09-OAR-2011-0978).

Hard copies of the final permit and EPA's responses to the public comments, and the Administrative Record for this action, may also be viewed in person, Monday through Friday from 9:00 AM to 4:00 PM, at the EPA Region 9 address below. Due to building security procedures, please call Lisa Beckham at (415) 972-3811 to arrange a visit at least 48 hours in advance. Hard copies of the final permit and EPA's responses to the public comments are

available upon request at the following:

E-mail: R9airpermits@epa.gov

U.S. Mail: Lisa Beckham (AIR-3)
U.S. EPA Region 9
75 Hawthorne Street
San Francisco, CA 94105-3901
Phone: (415) 972-3811

The contact information above may also be used to request copies of other portions of the administrative record for this action.

Please bring the foregoing notice to the attention of all persons who would be interested in this matter.

*** END OF ANNOUNCEMENT ***
Issued March 3, 2014